

HOUSE BILL NO. 506

INTRODUCED BY R. ERICKSON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE MEDICAL USE OF CANNABIS BY INDIVIDUALS DIAGNOSED WITH DEBILITATING MEDICAL CONDITIONS; PROVIDING DEFINITIONS; PROVIDING FOR A REGISTRY OF INDIVIDUALS DIAGNOSED WITH DEBILITATING MEDICAL CONDITIONS AND THEIR PRIMARY CAREGIVERS; PROVIDING RESTRICTIONS ON THE POSSESSION AND USE OF CANNABIS FOR MEDICAL PURPOSES; PROVIDING EXEMPTIONS FROM PROFESSIONAL AND OCCUPATIONAL LICENSING ACTIONS FOR THE AUTHORIZED MEDICAL USE OF CANNABIS; PROVIDING EXEMPTIONS FROM CRIMINAL VIOLATIONS FOR THE AUTHORIZED MEDICAL USE OF CANNABIS; PROVIDING FOR RESTRICTIONS ON SEARCH AND SEIZURE RELATED TO THE AUTHORIZED MEDICAL USE OF CANNABIS; AMENDING SECTIONS 37-1-136, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, AND 45-10-107, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Findings. The legislature finds that:

(1) patients and doctors have found cannabis to be an effective treatment for suffering caused by debilitating medical conditions and, therefore, cannabis should be treated like other medicines;

(2) Montanans suffering from debilitating medical conditions should be allowed to use small amounts of cannabis without fear of civil or criminal penalties when their doctors advise that the use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use;

(3) [sections 1 through 14] are intended to allow Montanans with debilitating medical conditions who may benefit from the medical use of cannabis to be able to discuss freely with their doctors the possible risks and benefits of the medical use of cannabis and to have the benefit of their doctors' professional advice; and

(4) [sections 1 through 14] are intended to make only those changes to existing laws that are necessary to protect patients and their doctors from criminal and civil penalties and are not intended to change current civil and criminal laws governing the use of cannabis for nonmedical purposes.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 14], unless the context requires

otherwise, the following definitions apply:

(1) "Attending physician" means a physician licensed under Title 37, chapter 3, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) (a) "Cannabis" means:

(i) all parts of the plant cannabis family, whether growing or not;

(ii) the resin extracted from any part of the plant; and

(iii) every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

(b) The term does not include the mature stalks of the plant, the fiber produced from the stalks, any oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the extracted resin), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination.

(3) "Debilitating medical condition" means:

(a) cancer, glaucoma, or positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(b) a medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(i) cachexia (loss of body weight due to wasting disease);

(ii) severe or chronic pain;

(iii) severe nausea;

(iv) seizures, including but not limited to seizures caused by epilepsy; or

(v) persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

(c) any other medical condition or treatment for a medical condition adopted by the department by rule;

or

(d) any other medical condition for which the physician is able to provide reasonable scientific documentation of benefit of the medical use of cannabis.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer, other than by administering or dispensing, from one person to another of cannabis, whether or not there is an agency relationship between the people.

(5) "Department" means the department of public health and human services.

(6) (a) "Designated primary caregiver" means an individual, 18 years of age or older, who has significant

responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is identified as the designated primary caregiver on that person's application for a registry identification card or in other written documentation submitted to the department.

(b) The term does not include the person's attending physician.

(7) "Medical use of cannabis" means the production, possession, delivery, or administration of cannabis or the possession of paraphernalia used to administer cannabis as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person's debilitating medical condition.

(8) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of cannabis.

(9) "Registry identification card" means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any.

(10) (a) "Usable cannabis" means the dried leaves and flowers of the plant cannabis family and any mixture or preparation of the plant that are appropriate for medical use as allowed in [sections 1 through 14].

(b) The term does not include the seeds, stalks, and roots of the plant.

(11) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

NEW SECTION. Section 3. Medical use of cannabis -- limits on amount possessed, delivered, or produced. (1) A person who possesses a registry identification card issued pursuant to [section 4] may engage in, and a designated primary caregiver of that person may assist in, the medical use of cannabis only as justified to mitigate the symptoms or effects of the person's debilitating medical condition. Except as allowed in subsection (2), a registry identification cardholder and that person's designated primary caregiver may not collectively possess, deliver, or produce more than the following:

(a) if the person is present at a location at which cannabis is not produced, including any residence associated with that location, 1 ounce of usable cannabis; and

(b) if the person is present at a location at which cannabis is produced, including any residence associated with that location, 15 cannabis plants and 1 ounce of usable cannabis for each mature plant.

(2) If the individuals described in subsection (1) possess, deliver, or produce cannabis in excess of the amounts allowed in subsection (1), the individuals are not excepted from the criminal laws of the state but may establish an affirmative defense to criminal charges, by a preponderance of the evidence, that the greater amount is medically necessary to mitigate the symptoms or effects of the person's debilitating medical condition.

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2 **NEW SECTION. Section 4. Registry identification card -- eligibility -- duties of cardholder.** (1)

3 Except as provided in [section 6], a person engaged in or assisting in the medical use of cannabis is excepted
4 from the criminal laws of the state for possession, delivery, or production of cannabis, aiding and abetting
5 another in the possession, delivery, or production of cannabis, or any other criminal offense in which possession,
6 delivery, or production of cannabis is an element if the following conditions have been satisfied:

7 (a) the person holds a registry identification card issued pursuant to this section, has applied for a
8 registry identification card pursuant to subsection (9), or is the designated primary caregiver of a cardholder or
9 applicant; and

10 (b) the person who has a debilitating medical condition and that person's designated primary caregiver
11 are collectively in possession of, delivering, or producing cannabis for medical use in the amounts allowed in
12 [section 3].

13 (2) The department shall establish and maintain a program for the issuance of registry identification
14 cards to persons who meet the requirements of this section. Except as provided in subsection (3), the
15 department shall issue a registry identification card to any person who pays a fee in the amount established by
16 the department, which is commensurate with the costs of administering the registry, and who provides the
17 following:

18 (a) valid, written documentation from the person's attending physician stating that the person has been
19 diagnosed with a debilitating medical condition and that the medical use of cannabis may mitigate the symptoms
20 or effects of the person's debilitating medical condition;

21 (b) the name, address, and date of birth of the person;

22 (c) the name, address, and telephone number of the person's attending physician; and

23 (d) the name and address of the person's designated primary caregiver, if the person has designated
24 a primary caregiver at the time of application.

25 (3) The department shall issue a registry identification card to a person who is a minor if the person
26 submits the materials required under subsection (2) and the custodial parent or legal guardian with responsibility
27 for health care decisions for the minor signs a written statement that:

28 (a) the attending physician of the minor has explained to that minor and to the custodial parent or legal
29 guardian with responsibility for health care decisions for the minor the possible risks and benefits of the medical
30 use of cannabis;

1 (b) the custodial parent or legal guardian with responsibility for health care decisions for the minor
2 consents to the use of cannabis by the minor for medical purposes;

3 (c) the custodial parent or legal guardian with responsibility for health care decisions for the minor
4 agrees to serve as the designated primary caregiver for the minor; and

5 (d) the custodial parent or legal guardian with responsibility for health care decisions for the minor
6 agrees to control the acquisition of cannabis and the dosage and frequency of use by the minor.

7 (4) A person applying for a registry identification card pursuant to this section may submit the
8 information required in this section to a county health department for transmittal to the department. A county
9 health department that receives the information pursuant to this subsection shall transmit the information to the
10 department within 5 days of receipt of the information. Information received by a county health department
11 pursuant to this subsection is confidential and is not subject to disclosure except as required to transmit the
12 information to the department.

13 (5) (a) The department shall verify the information contained in an application submitted pursuant to
14 this section and shall approve or deny an application within 30 days of receipt of the application.

15 (b) The department may deny an application only for the following reasons:

16 (i) the applicant did not provide the information required pursuant to this section to establish the
17 existence of a debilitating medical condition and to document the applicant's consultation with an attending
18 physician regarding the medical use of cannabis in connection with that condition as provided in subsections
19 (2) and (3); or

20 (ii) the department determines that the information provided was false.

21 (c) Denial of a registry identification card is considered a final department action, subject to judicial
22 review. Only the person whose application has been denied or, in the case of a minor whose application has
23 been denied, the minor's parent or legal guardian has standing to contest the department's action.

24 (d) A person whose application has been denied may not reapply for 6 months from the date of the
25 denial unless authorized by the department or by a court of competent jurisdiction.

26 (6) (a) If the department has verified the information submitted pursuant to subsections (2) and (3) and
27 none of the reasons for denial listed in subsection (5)(b) are applicable, the department shall issue a serially
28 numbered registry identification card within 5 days of verification of the information. The registry identification
29 card must state:

30 (i) the cardholder's name, address, and date of birth;

1 (ii) the date of issuance and expiration date of the registry identification card;

2 (iii) the name and address of the person's designated primary caregiver, if any; and

3 (iv) other information that the department may specify by rule.

4 (b) If the registry identification cardholder has specified a designated primary caregiver, the department
5 shall issue an identification card to the designated primary caregiver. The primary caregiver's identification card
6 must contain the information provided in subsection (6)(a).

7 (7) (a) A registry identification cardholder shall:

8 (i) notify the department of any change in the person's name, address, attending physician, or
9 designated primary caregiver; and

10 (ii) annually submit to the department:

11 (A) updated written documentation of the person's debilitating medical condition; and

12 (B) the name of the person's designated primary caregiver, if a primary caregiver has been designated
13 for the upcoming year.

14 (b) If a registry identification cardholder fails to comply with this subsection (7), the card must be
15 considered expired. If a registry identification card expires, the identification card of any designated primary
16 caregiver of the cardholder also expires.

17 (8) A registry identification cardholder who has been diagnosed by the person's attending physician as
18 no longer having a debilitating medical condition shall return the registry identification card to the department
19 within 7 calendar days of notification of the diagnosis. Any designated primary caregiver shall return that
20 person's identification card within the same period of time.

21 (9) A person who has applied for a registry identification card pursuant to this section but whose
22 application has not yet been approved or denied and who is contacted by any law enforcement officer in
23 connection with the administration, possession, delivery, or production of cannabis for medical use may provide
24 to the law enforcement officer a copy of the written documentation submitted to the department pursuant to
25 subsection (2) or (3) and proof of the date of mailing or other transmission of the documentation to the
26 department. This documentation has the same legal effect as a registry identification card until the person
27 receives notification that the application has been approved or denied.

28
29 **NEW SECTION. Section 5. Designated primary caregiver.** (1) If a registry identification cardholder
30 chooses to have a designated primary caregiver, the person shall designate the primary caregiver by including

1 the primary caregiver's name and address:

2 (a) on the person's application for a registry identification card;

3 (b) in the annual updated information required under [section 4]; or

4 (c) in a written, signed statement submitted to the department.

5 (2) A person described in this section may have only one designated primary caregiver at any given
6 time.

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8 **NEW SECTION. Section 6. Limitations on cardholder's immunity from criminal laws.** (1) A person
9 authorized to possess, deliver, or produce cannabis for medical use pursuant to [sections 1 through 14] is not
10 excepted from the criminal laws of this state or considered to have established an affirmative defense to criminal
11 charges of which possession, delivery, or production of cannabis is an element if the person, in connection with
12 the facts giving rise to the charges:

13 (a) drives under the influence of cannabis as provided in Title 61, chapter 8, part 4;

14 (b) engages in the medical use of cannabis in a public place as defined in 16-1-106, in public view, or
15 in a correctional institution as defined in 45-2-101 or a state youth correctional facility as defined in 41-5-103;

16 (c) delivers cannabis to any individual if the person knows that the individual is not in possession of a
17 registry identification card;

18 (d) delivers cannabis for consideration to any individual, even if the individual is in possession of a
19 registry identification card;

20 (e) manufactures or produces cannabis at a place other than one address for property under the control
21 of the patient and the one address for property under the control of the designated primary caregiver that have
22 been provided to the department; or

23 (f) manufactures or produces cannabis at more than one address.

24 (2) In addition to any other penalty allowed by law, if the department finds that a person has willfully
25 violated the provisions of [sections 1 through 14] or rules adopted under [sections 1 through 14], the person may
26 be precluded from obtaining or using a registry identification card for the medical use of cannabis for a period
27 of up to 6 months at the discretion of the department.

28
29 **NEW SECTION. Section 7. Affirmative defense to certain criminal acts available to cardholder.**

30 (1) Except as provided in [section 6], it is an affirmative defense to a criminal charge of possession, delivery, or

1 production of cannabis or any other criminal offense in which possession, delivery, or production of cannabis
2 is an element that the person charged with the offense is a person who:

3 (a) has been diagnosed with a debilitating medical condition within 12 months prior to arrest and been
4 advised by the person's attending physician that the medical use of cannabis may mitigate the symptoms or
5 effects of that debilitating medical condition;

6 (b) is engaged in the medical use of cannabis; and

7 (c) possesses or produces cannabis only in the amounts allowed in [section 3] or in excess of those
8 amounts if the person proves by a preponderance of the evidence that the greater amount is medically
9 necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's
10 debilitating medical condition.

11 (2) It is not necessary for a person to have received a registry identification card in order to assert the
12 affirmative defense established in this section.

13 (3) A person engaged in the medical use of cannabis who claims that cannabis provides medically
14 necessary benefits and who is charged with a crime pertaining to the use of cannabis may not be precluded from
15 presenting evidence supporting the necessity of cannabis for treatment of a specific disease or medical condition
16 if the amount of cannabis at issue is no greater than permitted under [section 3] and the person has taken a
17 substantial step to comply with the provisions of [sections 1 through 14].

18 (4) Any defendant proposing to use the affirmative defense provided for by this section in a criminal
19 action shall, not less than 5 days before trial, file and serve upon the prosecuting attorney a written notice of the
20 intention to offer the defense that specifically states the reasons why the defendant is entitled to assert the
21 affirmative defense and the factual basis for the affirmative defense. If the defendant fails to file and serve the
22 notice, the defendant may not be permitted to assert the affirmative defense at the trial unless the court, for good
23 cause, orders otherwise.

24
25 **NEW SECTION. Section 8. Effect of possession of registry identification card or designated**
26 **primary caregiver identification card on search and seizure.** (1) Possession of a registry identification card
27 or designated primary caregiver identification card pursuant to [section 4] may not alone constitute probable
28 cause to search the person or property of the cardholder or otherwise subject the person or property of the
29 cardholder to inspection by any law enforcement agency.

30 (2) Any property interest possessed, owned, or used in connection with the medical use of cannabis

or acts incidental to the medical use of cannabis that has been seized by state or local law enforcement officers may not be harmed, neglected, injured, or destroyed while in the possession of any law enforcement agency. A law enforcement agency does not have a responsibility to maintain live cannabis plants lawfully seized. A property interest may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable cannabis or paraphernalia used to administer cannabis that was seized by any law enforcement agency must be returned immediately upon a determination by the county attorney in whose county the property was seized or the county attorney's designee that the person from whom the cannabis or paraphernalia used to administer cannabis was seized is entitled to the protections contained in [sections 1 through 14]. The determination may be evidenced, for example, by a decision not to prosecute, the dismissal of the charges, or acquittal.

NEW SECTION. Section 9. Attending physician -- limitation on civil liability and professional discipline. An attending physician may not be subjected to a civil penalty or to discipline by the board of medical examiners for:

(1) advising a person whom the attending physician has diagnosed as having a debilitating medical condition or a person who the attending physician knows has been given that diagnosis by another physician licensed under Title 37, chapter 3, about the risks and benefits of medical use of cannabis or that the medical use of cannabis may mitigate the symptoms or effects of the person's debilitating medical condition if the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) providing the written documentation necessary for issuance of a registry identification card under [section 4] if the documentation is based on the attending physician's personal assessment of the applicant's medical history and current medical condition and the physician has discussed the potential medical risks and benefits of the medical use of cannabis with the applicant.

NEW SECTION. Section 10. Limits on licensing board authority to sanction licensee. A professional licensing board or the department of labor and industry may not impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of cannabis in accordance with the provisions of [sections 1 through 14] or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a registry identification card issued

pursuant to [section 4].

NEW SECTION. Section 11. List of individuals issued registry identification cards and list of primary caregivers -- disclosure. (1) The department shall create and maintain a list of the persons to whom the department has issued registry identification cards pursuant to [section 4] and the names of any designated primary caregivers. Except as provided in subsection (2), the list must be confidential and is not subject to public disclosure.

(2) Names and other identifying information from the list established pursuant to subsection (1) may be released to:

(a) authorized employees of the department as necessary to perform official duties of the department; and

(b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card or that a person is the designated primary caregiver of a cardholder.

NEW SECTION. Section 12. Rulemaking. The department shall adopt rules necessary for the implementation and administration of [sections 1 through 14].

NEW SECTION. Section 13. Limitations on reimbursement of costs -- employer accommodation. [Sections 1 through 14] may not be construed to require:

(1) a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of cannabis; or

(2) an employer to accommodate the medical use of cannabis in any workplace.

NEW SECTION. Section 14. Limitations on protection from criminal liability. [Sections 1 through 14] do not protect a person from a criminal cause of action based on possession, delivery, or production of cannabis that is not authorized by [sections 1 through 14].

Section 15. Section 37-1-136, MCA, is amended to read:

"37-1-136. Disciplinary authority of boards -- injunctions. (1) Each licensing board allocated to the

department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

- (a) revocation of a license;
- (b) suspension of its judgment of revocation on terms and conditions determined by the board;
- (c) suspension of the right to practice for a period not exceeding 1 year;
- (d) placing a licensee on probation;
- (e) reprimand or censure of a licensee; or
- (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

(4) An action may not be taken against a person who is in compliance with [sections 1 through 14]."

Section 16. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in [sections 1 through 14], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchange, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as

provided in 46-18-222.

(4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than life or be fined an amount of not more than \$50,000, or both.

(5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(6) Practitioners and agents under their supervision acting in the course of a professional practice, as defined by 50-32-101, are exempt from this section."

Section 17. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1) ~~A~~ Except as provided in [sections 1 through 14], a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable

1 by a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 1 year or in the state
2 prison for a term not to exceed 3 years or both such fine and imprisonment.

3 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the
4 first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500
5 or by imprisonment in the county jail for not more than 6 months, or both.

6 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be
7 imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more
8 than \$50,000, except as provided in 46-18-222.

9 (5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in
10 subsection (2), (3), or (4) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an
11 amount not to exceed \$50,000, or both.

12 (6) A person convicted of a first violation under this section is presumed to be entitled to a deferred
13 imposition of sentence of imprisonment.

14 (7) Ultimate users and practitioners and agents under their supervision acting in the course of a
15 professional practice, as defined by 50-32-101, are exempt from this section."
16

17 **Section 18.** Section 45-9-103, MCA, is amended to read:

18 **"45-9-103. Criminal possession with intent to distribute.** (1) ~~A~~ Except as provided in [sections 1
19 through 14], a person commits the offense of criminal possession with intent to distribute if the person possesses
20 with intent to distribute any dangerous drug as defined in 50-32-101.

21 (2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to
22 distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and
23 may be fined not more than \$50,000, except as provided in 46-18-222.

24 (3) A person convicted of criminal possession with intent to distribute not otherwise provided for in
25 subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount
26 not to exceed \$50,000, or both.

27 (4) Practitioners and agents under their supervision acting in the course of a professional practice as
28 defined by 50-32-101 are exempt from this section."
29

30 **Section 19.** Section 45-9-110, MCA, is amended to read:

1 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) ~~A~~ Except as provided in
2 [sections 1 through 14], a person commits the offense of criminal production or manufacture of dangerous drugs
3 if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes
4 a dangerous drug, as defined in 50-32-101.

5 (2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in
6 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term
7 of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in
8 46-18-222.

9 (3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule
10 I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction
11 that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be
12 imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more
13 than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final
14 for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the
15 state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000,
16 except as provided in 46-18-222.

17 (4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a
18 dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not
19 to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and
20 the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned
21 in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight"
22 means the weight of the dry plant and includes the leaves and stem structure but does not include the root
23 structure. A person convicted under this subsection who has a prior conviction that has become final for criminal
24 production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not
25 to exceed twice that authorized for a first offense under this subsection and may be fined not more than
26 \$100,000.

27 (5) Practitioners and agents under their supervision acting in the course of a professional practice, as
28 defined in 50-32-101, are exempt from this section."
29

30 **Section 20.** Section 45-9-127, MCA, is amended to read:

1 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) ~~A~~ Except as provided in [sections 1
2 through 14], a person commits the offense of carrying dangerous drugs on a train in this state if ~~he~~ the person
3 is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

4 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
5 provided in 45-9-102."
6

7 **Section 21.** Section 45-10-107, MCA, is amended to read:

8 **"45-10-107. Exemptions.** Practitioners and agents under their supervision acting in the course of a
9 professional practice as defined by 50-32-101 and persons in compliance with [sections 1 through 14] are
10 exempt from this part."
11

12 NEW SECTION. **Section 22. Codification instruction.** [Sections 1 through 14] are intended to be
13 codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 14].
14

15 NEW SECTION. **Section 23. Effective date.** [This act] is effective July 1, 2003.
16

- END -